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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

UNITED STATES OF AMERICA,	)	Magistrate Docket No. '07 MJ 2811
Plaintiff,	)	
	)	COMPLAINT FOR VIOLATION OF:
v.	)	
	)	Title 8, U.S.C., Section 1326
Gustavo VILLANUEVA-Villa,	)	Deported Alien Found in the
	)	United States
	)	
Defendant	)	

The undersigned complainant, being duly sworn, states:

On or about **December 4, 2007** within the Southern District of California, defendant, **Gustavo VILLANUEVA-Villa,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **5th** DAY OF **DECEMBER, 2007**

Ruben B. Brooks
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Gustavo VILLANUEVA-Villa

PROBABLE CAUSE STATEMENT

On December 4, 2007 Border Patrol Agent B. Lopez was performing line watch duties in an area known as Smuggler's Canyon. This area is approximately three miles west of the San Ysidro, California Port of Entry and is adjacent to the United States / Mexico international border fence and extends north approximately 600 yards. At approximately 5:50 a.m., Border Patrol dispatch reported a sensor activation in Smuggler's Canyon. Agent Lopez responded to the area. The National Guard infrared scope operator then advised Agent Lopez via service radio, that he had observed a group of subjects emerge from the area and were moving in a northern direction. The scope operator also advised that due to the heavy brush in Smuggler's Canyon, he could not maintain visual of the subjects and soon lost sight of them. Following the directions, Agent Lopez soon arrived at the area and began searching. After a brief search, Agent Lopez encountered four subjects attempting to hide. Agent Lopez identified himself as a U.S. Border Patrol Agent and questioned then performed an immigration inspection. All of the subjects, including one later identified as the defendant **Gustavo VILLANUEVA-Villa**, freely admitted to being citizens and nationals of Mexico without immigration documents to be in or remain in the United States legally. All of the subjects were arrested and transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **January 18, 1991** through **Otay Mesa, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was read the Miranda rights in the Spanish language and was willing to answer questions without the presence of an attorney. The defendant freely admitted once again to being a citizen and national of Mexico illegally present in eh United States. The defendant further admitted to being previously removed from the United States and that he has never applied for permission to re-enter the United States.